UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1083
13 March 1995

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-sixth session

SUMMARY RECORD OF THE 1083rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 March 1995, at 3 p.m.

Chairman: Mr. GARVALOV

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eighth, ninth, tenth and eleventh periodic reports of Peru

ORGANIZATIONAL AND OTHER MATTERS (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.95-15597 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Eighth, ninth, tenth and eleventh periodic reports of Peru (CERD/C/225/Add.3; HRI/CORE/1/Add.43)

1. At the invitation of the Chairman, Mr. Vega Santa-Gadea, Mr. Urrutia, Mr. Chauny, Mr. Rubio-Correa, Mr. Garcia and Mr. Perez-del-Solar (Peru) took places at the Committee table.

2. The CHAIRMAN reminded members that the reference material on Peru available to them included reports by the Human Rights Committee, the Committee against Torture and the International Labour Organization.

3. Mr. VEGA SANTA-GADEA (Peru) said that, as Minister of Justice, he had been entrusted by the President of Peru with the presentation of that country's eighth, ninth, tenth and eleventh periodic reports, submitted in one document (CERD/C/225/Add.3). His Government was pleased to resume its dialogue with the Committee, which, for reasons beyond its control, had been interrupted for a number of years.

4. The Government, democratically elected in 1990, had worked hard to rebuild the shattered economy and combat terrorism and drug trafficking. Inflation had dropped from an annual rate of over 7,000 per cent in 1990 to 15.4 per cent in 1994. While the process of national peace-building was not yet complete, the Government had succeeded in disbanding many terrorist organizations and arresting their leaders, thanks to its - necessarily strict - anti-terrorist legislation, which was now being progressively relaxed. A Peace Council had been established to devise a national peace-making plan and provide advice and support for all those working to bring the violence to an end. The Ministry of Defence had begun an education campaign on human rights for the security forces, and courses and conferences dealing with the main international human rights instruments formed part of an officer's training.

5. The international bodies concerned with human rights had acknowledged the sharp fall in the number of allegations of violation of human rights in Peru and the willingness of the new Government to deal swiftly with the allegations and cooperate in every other way. According to the Public Prosecutor's Department (Ministerio Público), 102 cases of alleged human rights violations had been processed in 1994. The National Council for Human Rights had been revived to improve coordination of human rights activities and promote respect for human rights. Among the Government's other achievements was a wide-ranging reform and modernization of the prison system, which was now one of the most advanced in the region.

6. Democracy had returned to Peru with the holding of congressional elections in 1992, and a general election was planned for April 1995 in which the people would choose a President, two Vice-Presidents and the members of Congress for the next five years. The new political constitution had been adopted in 1993 and endorsed by the people in a referendum. As indicated in

document HRI/CORE/1/Add.43, it had established the National Council of the Judiciary, an independent body responsible for the selection and appointment of judges, including the members of the Supreme Court. The Constitution had also established the Office of the Ombudsman, whose task was to defend the constitutional and fundamental rights of the individual and the community and to supervise the work of the State administration and the provision of public services. A Constitutional Court (Tribunal Constitucional) had also recently been established.

7. The Constitution stated that all persons were equal before the law and expressly prohibited discrimination on the grounds of origin, race or language. The Government had drawn up a preliminary draft of a law which would cite acts of racial discrimination as an aggravating factor in offences already described in the existing criminal law, thus reflecting the provisions of article 4 of the Convention.

8. Any discussion of racial problems in Peru must necessarily refer to the situation of the indigenous communities, which was also described in the core document. Peru was the most ethnically varied country in South America, with no less than 14 different families of languages. Indigenous communities enjoyed a whole range of rights and prerogatives which protected their existence as legal entities and their autonomy in respect of organization, communal work and the free use of their lands. The Constitution delegated many legal functions to the traditional indigenous authorities in accordance with customary law, provided that the fundamental rights of the individual were not infringed. Other legislation dealing with indigenous communities included the Act on Native Communities and the General Peasant Communities Act and acts concerning land demarcation and land title and registration of rural property. The national project for river basin management and soil conservation had carried out studies in over 3,000 communities in 1994.

9. A project aimed at encouraging the transfer of technology to peasant communities of the Sierra had been set up in 1992 to promote agricultural extension services and improve the communication between peasant communities and other agricultural organizations in 5 departments and 365 peasant communities.

10. The rural property title project was designed to ensure that indigenous communities had security of tenure in their own territories. In 1994 alone, over 1,100 peasant communities and over 860 indigenous communities had been granted title to their land. A national system of public registries had been set in 1994.

11. The Government had also given a high priority to education. New schools had been built throughout the country, particularly in the poorest areas. In its efforts to eradicate illiteracy and promote bilingual and intercultural education in indigenous communities, the Government had begun an ambitious education programme for the period 1995-2010.

12. In the health field, the Government had introduced a national programme to increase spending on health centres and improve health services.

13. In response to the terrorist acts which had devastated the social order, the economy and living standards over the last 13 years, the Government had encouraged the peasant self-defence patrols. At present, there were an estimated 600,000 displaced persons in Peru, of whom 70 per cent were from the region of the Andes. A Population Support Project had been established in 1993 to help people return to their homes, improve their living standards and income from agriculture and encourage agricultural diversification and a project of particular importance had been implemented in the province of Huamanga in Ayacucho Department, one of the areas most affected by terrorism. Activities financed through international technical cooperation included studies in four departments and over 100 irrigation, road and service projects. Other initiatives included joint programmes to improve health services and rural road communications.

14. The Government was aware that the fight against racial discrimination had not yet been won: it would require the continued support of the Peruvian people and international development assistance. Peru had built up a relationship of collaboration and cooperation with the United Nations human rights bodies over the last four years, and he would be very glad to answer any questions from members of the Committee.

15. Mr. WOLFRUM (Country Rapporteur) thanked the Peruvian delegation for the information it had provided. The report before the Committee (CERD/C/225/Add.3) dealt mainly with Peru's legislation, particularly the 1993 Constitution, but it contained little information concerning administrative or other measures taken and the actual situation regarding racial discrimination in the country. In that respect, the report failed, in his view, to comply with the Committee's guidelines. The delegation's oral statement had provided useful information about the situation in Peru, but such information could more usefully be given in writing in future reports, since written information was easier to assimilate.

16. Some information on the demographic composition of Peru's population was contained in the core document (HRI/CORE/1/Add.43, paras. 7-13). However, the Peruvian Government had provided no information on the population's ethnic composition and he therefore thought it necessary to furnish some details he had discovered through his own research.

17. The Peruvian population was made up of (a) indigenous people; (b) mestizos; (c) white Peruvians of European ancestry; (d) Asians from China and Japan; (e) Africans. Official sources appeared to distinguish between the indigenous communities of Quechua and Aymara origin, living in the Sierra, and the native communities - tribal groups living in dispersed settlements in the jungle and jungle rim areas. The main economic activity of the former was agriculture, with some mining in the central Sierra. The latter had developed agriculture to supplement hunting, fishing and gathering wild fruits, berries, etc.

18. The term mestizo had originally referred to Peruvians of mixed European and native American ancestry, but it now appeared to be applied to all obviously non-white persons who were fluent in Spanish and lived according to Hispanic culture. It appeared, therefore, to be a cultural and social designation rather than an ethnic one.

19. The white population of Peru was made up of Europeans of various backgrounds, including the traditional Hispanic élite which had ruled the country for centuries. The upper class was still predominantly white and lived almost exclusively in Lima province, although its wealth was now based on business and banking, rather than rural land ownership as in the past.

20. The Asian population of Peru consisted mainly of Chinese and Japanese immigrants and their descendants, who had come to Peru in the nineteenth century and the early twentieth century, respectively. The Japanese presence had increased significantly over the period 1970-1990.

21. The African population had arrived as slaves at the beginning of the Spanish conquest of Peru. They were mostly working-class and lived in Lima and other coastal towns.

22. It was difficult to obtain a clear picture of the ethnic composition of Peruvian society, because socio-economic factors associated with the social class structure played a major role, and past censuses had often failed to identify the various ethnic groups or count their numbers accurately. He had found the following unofficial figures for the early 1990s: native Peruvians, 45-52 per cent; whites 12-15 per cent; mestizos 33-37 per cent; blacks, Asians and others 3-4 per cent. The core document (para. 7) stated that there were 4,000-4,500 peasant and native communities, of which 53 per cent had Quechua as their mother tongue and 41 per cent Spanish. The core document also stated in paragraph 14 that a national census had taken place in 1993. He asked the Peruvian delegation whether that census had contained a question for ascertaining the ethnic origin, or at least the mother tongue, of the respondents and, if so, what results had been obtained.

23. According to official estimates, in the early 1990s over 72 per cent of the population spoke Spanish and less than 28 per cent spoke Quechua, of whom 16 per cent claimed to be bilingual (HRI/CORE/1/Add.43, para. 6). Those figures showed a considerable decline in the use of Quechua, Aymara and other native languages since the 1960s, when almost 39 per cent of the population had been recorded as speakers of native languages. He asked the Peruvian delegation what had caused that decline: was it the decline of indigenous communities in general, lack of education or some other factor?

24. After the conquest, the Spanish Crown had taken over from the Incas the ownership of all native land, which it had granted in usufruct to indigenous community families in exchange for tribute payments and labour services. Although the Crown had attempted to take stern control of civic affairs, including the treatment, role and condition of native Americans, who had been officially protected by Spanish law, the well-intended regulations had been neither effective nor accepted by creole and immigrant interests. The colonists, often in collusion with Crown officials and local priests, had found ways of circumventing Crown laws and of gaining control of native American lands and labour. That had repeatedly led to native peasant rebellions, especially in the late eighteenth century.

25. The independence of Peru had led to a significant change in the legal status of the indigenous population. General San Martín had abolished the tribute payments and labour services of the native communities and decreed

that native people should no longer be called aboriginals or indios but be known as Peruvians and that they should enjoy the full rights of Peruvian citizens. Nevertheless, the term "indígena" had still been widely used in legislation relating to native communities in the twentieth century, including the Constitutions of 1920 and 1933. Only since General Velasco had decided, at the end of the 1960s, to use the term peasant (campesino) instead of the term indio had the word indígena disappeared as an official term. Instead, the Constitution of 1979 referred to "native peasant communities".

26. According to Peru's report, the 1993 Constitution provided for the protection of human rights in articles 1 and 2. However, there was a significant difference between article 1 of the 1979 Constitution and article 1 of the 1993 Constitution. According to the former, the human person was the supreme end of society and the State. Everyone had an obligation to respect and protect it. The wording of article 1 of the 1993 Constitution was substantially narrower, asserting that the defence of the human person and respect for its dignity was the supreme end of society and the State. Why had that change been made? In the report reference was also made to article 44 of the new Constitution, according to which the State had an obligation to guarantee the full application of human rights. Finally, article 2, paragraph 2, of the new Constitution prohibited discrimination based upon race, language or economic status. Those constitutional rules fully satisfied the provisions of the Convention, but he would like to have some information on their implementation.

27. Paragraph 11 of the report referred to the establishment of the Office of the Ombudsman. However, the report did not indicate what were the Office's activities. The functions of the Ombudsman appeared to be rather limited and could not be equated with those of ombudsmen in other countries. He would like to know what functions the Ombudsman had in Peru, whether he had issued any reports, and in particular whether he could initiate proceedings before the courts.

28. He asked the same question in respect of the Human Rights Committee mentioned in paragraph 12 of the report and the National Human Rights Council referred to in paragraph 14 and he wished to know what exactly were the functions of the offices mentioned in paragraph 15? He had found, in an ILO document, a reference to a National Institute for the Development of Rural Communities, which played an important role in the life of the indigenous population. Information on that Institute should have been included in the report. The proliferation of human rights institutions might be a very good or a very bad sign. Until the Committee received the necessary information, it could not assess what such institutions could do or had done. Moreover, the existence of such a large number of institutions required proper coordination to ensure that particular problems were not neglected. He wondered what the situation in that respect was in Peru.

29. The report referred in paragraphs 21 et seq. to the protection of the peasant and indigenous communities, which were stated to be recognized in law and to enjoy legal personality and autonomy in respect of organization, communal work and the free use of their lands. On the last point he would like to know how the free use of community lands could be reconciled with articles 66 to 69 of the 1993 Constitution, which provided for State

jurisdiction in matters of environmental protection, biodiversity and natural resources. Did the free use of lands include mining? If it did, how was mining organized, who undertook it, and who saw to it that indigenous populations were protected against any detrimental effects? In some countries certain indigenous populations had been virtually extinguished as a result of the environmental changes brought about by mining. He also wished to know the meaning of the phrase "within the framework established by the law" in paragraph 21. Was there a particular law governing those matters, and if so what were its provisions? Could it be changed, and if so by whom, and was the consent of the indigenous population required? Without such information it was difficult to understand how the positive approach adopted by Peru worked out in practice.

30. The report stated that the cultural identity of the indigenous communities was respected. What was meant by "cultural identity"? Did it mean the preservation of their languages, culture, handicrafts and way of life? Information on those points should have been included in the report.

31. It would be interesting to learn what activities had been undertaken following Peru's ratification of the ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries, mentioned in paragraph 23 and, in general, what was the status of international instruments within the Peruvian legal system. In particular, why was parliamentary approval required in some cases and not in others?

32. According to paragraphs 24 and 35 of the report, the indigenous communities administered justice in their respective territories. Did that mean that, as was the case in New Zealand, indigenous communities really administered justice, including criminal justice? If so, who was responsible for overseeing the system? In the case of New Zealand, the way in which the indigenous population administered justice involved, in the Committee's opinion, cruelty. Consequently, there might be a clash between human rights and the protection of indigenous peoples' culture and way of life. Some information on the situation in Peru in that regard would be appreciated.

33. He would also welcome some amplification of the reference in the report to customary law and protection of the rights of individuals. What did the customary rules applicable to indigenous peoples entail and who was subject to them? He would also like to have some information on the culturally conditioned errors that would be taken into account in respect of indigenous peoples mentioned in paragraph 56, as well as an indication of particular cases. Some information on article 54 of the Environment Act and on the positive activities mentioned in paragraph 30 of the report would also be appreciated.

34. Although the existing legislation did not discriminate against indigenous Peruvians, it seemed to him that the level of protection accorded to the native population in the 1979 Constitution had been reduced in the new Constitution of 1993. The latter reaffirmed in general terms the principle of equality before the law and the right to ethnic and cultural identity, whereas the earlier text contained a specific reference to the obligation of the State to foster and promote manifestations of native culture and to further the study and knowledge of indigenous languages. The new Constitution referred

instead, in neutral terms, to the need to maintain the cultural and linguistic diversity of the country and to the need for national integration. He was particularly worried by the term "national integration"; did it imply a change of policy and that less emphasis was placed on indigenous languages? The present Constitution dealt with indigenous populations under the heading "Agrarian regime and peasant and native communities" - a combination of terms which did not fit very well together and caused him some concern.

35. The slave status of Afro-Peruvians had been abolished in 1854 and there did not seem to be any current legislation discriminating against Peruvians of African descent. However, the report lacked information on that subject, which seemed to indicate that the State was not concerned with the status of Afro-Peruvians.

36. Paragraphs 46 et seq. contained information concerning foreigners which seemed to indicate that the situation was fully in keeping with the standards of the Convention.

37. Referring to article 2, paragraphs 1 (c) and 2, of the Convention, he said that the Committee was concerned, not only about intentional acts of racial discrimination, but also about situations which had the effect of creating or perpetuating such discrimination, and it had issued a general recommendation in that regard. The report of Peru quite frankly stated that the social and economic situation of the indigenous population was inferior to that of the rest of the population and that some areas inhabited predominantly by indigenous groups had suffered from neglect. On the basis of statistical data for 1992, it would appear that all the attempts made so far to improve the social and economic conditions of the indigenous population had failed. The regions and departments with the largest indigenous populations were viewed as the most backward, being the poorest, the least educated and the least developed. Statistics permitting a comparison between the quantity and quality of public resources concentrated in Lima, where the white population was mostly located, and the Department of Cuzco, which was inhabited mainly by indigenous people of Quechua and Aymara origin, clearly showed that conditions in the capital were much more favourable than conditions in Cuzco.

38. Did those findings support the assumption that racial discrimination against non-whites was an inherent feature of official, socio-economic policies. That question should be answered with caution, since in most highly centralized States public funds and resources were concentrated in the capital, whereas the improvement of social and economic conditions in the provinces was neglected. That was particularly true of a country such as Peru, where one third of the total population lived in the capital. It might be argued that the migration of millions of highlanders to Lima over the past few decades had increased the need to give priority to the development of public infrastructures in the capital. At the same time it could be argued that the terrorism of the "Shining Path" organization in the highlands during much of the 1980s and 1990s, which had included attacks on the infrastructure of the regions concerned, had effectively discouraged the Government from spending its limited resources on public infrastructure projects in the highland regions. It was difficult to say whether the Government's social and economic policies in recent years had been guided only by the need to react to the ongoing political and economic crisis, or also by motives of racial

discrimination. In any event, the Government had an obligation, under article 2 of the Convention, to improve the situation, and the Committee should express its concern on the matter.

39. Very little information had been provided concerning the implementation of article 4 of the Convention. In particular, it was not clear whether article 371 of the Peruvian Penal Code met the standards of article 4 of the Convention.

40. There appeared to be no problem with regard to the implementation of article 5 of the Convention, since the Constitution contained a catalogue of human rights. Nevertheless, more information on the implementation of the Constitution's provisions would be appreciated. He also wished to know whether a state of emergency was still in force in any part of Peru.

41. There also appeared to be no problem with the implementation of article 6 of the Convention. However, he would appreciate receiving some information on the inquiry into the so-called "Cayara massacre", which had an ethnic background. What had been the inquiry's findings and what action had the Government taken on them? More information was also needed on the working of the court system. The representative of Peru had referred orally to the restructuring of the system, but further written information would be welcome.

42. In February 1993 an army lieutenant had been prosecuted, tried and heavily sentenced in connection with massacres perpetrated in the Andean region. Further information on the matter would be appreciated. For example, the sentence had been pronounced by a military court, and the Committee needed to be informed of the status and jurisdiction of such courts. Was it correct that they had jurisdiction even in cases where only the offender was a member of the armed forces? The Committee needed information on other cases that had been brought before military courts, on the military code of justice and its scope, and on the position in cases where the offender had been obeying an order given by a superior.

43. He had deliberately refrained from mentioning the current crisis between Ecuador and Peru, which was no concern of the Committee. However, since the conflict was being waged in a jungle area containing indigenous villages, he would welcome some information on the direct or indirect impact of the conflict on the villagers concerned, some of whom were reported to have had to leave their homes.

44. Mr. BANTON said that, under article 2, paragraph 1, States parties had an obligation to pursue a policy of eliminating racial discrimination. Although the report of Peru described legislation enacted to eradicate the phenomenon of racial discrimination, it failed to give a clear account of Peru's policy with regard to that phenomenon. The record of the Committee's discussions on Peru's previous periodic report appeared to indicate that Peru was pursuing an overriding policy of national integration. The most disadvantaged sectors, needing protection under article 2, paragraph 1, were likely to be those of lower socio-economic status. If the integration of the marginalized sectors was problematic, racial discrimination was part of the problem, although it was not the sole cause. He did not suggest that racial discrimination in Peru was of the same nature as that to be found north of the Rio Grande; it was a

long-term problem that had existed before the insurgency and might well continue in the future. With reference to article 2, paragraph 1 (e) of the Convention, he sought further information on non-governmental organizations (NGOs) concerned with the problem of national integration and with racial discrimination as an obstacle to integration in Peru. To what extent were there policy consultations between the Government and NGOs, did their members have views on where racial discrimination was most frequently encountered and had there been any response to those views?

45. Referring to article 3 of the Convention, he stressed that he did not believe there was any deliberate or State-authorized racial segregation in Peru. Nevertheless, there might be forms of discrimination associated with differences in levels of development. Migration to the cities, even before the insurgency, had resulted in a concentration of displaced persons in shanty towns and de facto segregation which might have adverse consequences for the policy of integration. Like Mr. Wolfrum, he was not satisfied that Peru had complied with its obligations under article 4, paragraphs (a) and (b), of the Convention.

46. With regard to article 5, more information was needed on the extent to which the measures described in paragraphs 74 and 75 of the report were effective. There were many teachers and students in Peru's universities who had the expertise to inquire into questions of that kind and they could contribute usefully to national policy. He regretted the lack of any information in the report on the right to housing, provided for under article 5 (e) (iii) of the Convention. By way of hypothesis, he asked whether an instruction given by an individual house-owner to an estate agent not to sell a house to an Indian would be illegal, or whether, if the agent acted as instructed, such action would be illegal. Referring to the right to equal participation in cultural activities, established in article 5 (e) (vi), and in particular to the mass media, he asked whether any of Peru's television news or programme presenters were of obviously indigenous origin, and whether there was any consultation with multiracial, integrationist associations to ascertain their views concerning representation in the media.

47. He recognized that many remedies were available, as required by article 6 of the Convention, but he wished to know how expensive it was for a person who had suffered discrimination to take advantage of those remedies, and to what extent they were effectively used. Commending Peru's acceptance of the individual complaints procedure under article 14, he asked whether some research could be carried out in order to ascertain the extent to which people were aware of the recourse procedure available to them.

48. Mr. van BOVEN said he welcomed the resumed dialogue with the reporting State, which was to be commended for sending a high-ranking delegation. The Committee's examination of Peru's present periodic report was to be seen in the wider context of the monitoring of the human rights situation in that country by other United Nations human rights bodies, but from the perspective of the Committee's specific mandate to deal with ethnic issues. He noted with satisfaction that the Government of Peru had ratified ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

49. With regard to the implementation of article 2 of the Convention, the report contained a large section on peasant and indigenous communities, but he was concerned that it made no mention of concrete measures, as required by the Convention, and was confined to general statements, as in paragraphs 37 and 38. The specific measures that were mentioned were attributed to the Catholic Church, whose activities, though commendable, could not be a substitute for the Government's responsibilities. Citing the reference in paragraph 43 to the development of peasant patrols in recent years, with growing support from the Government, including the supply of arms, he drew attention, with a request for comments by the representative of Peru, to a report of a delegation to Peru prepared by a Canadian organization, the Inter-Church Committee on Human Rights in Latin America, which stated that the new, armed civil defence patrols had often come into conflict with the unarmed, pacific and autonomous rondas campesinas which had existed in the zone for several years. The latter, which had been formed to fight crime, particularly livestock theft, and were modelled on the lines of traditional Andean indigenous culture as community organizations based on democratic, participatory principles, were reportedly being undermined by the new, armed civil defence patrols, which were increasingly showing signs of evolving into paramilitary groups engaging in delinquent activities, including theft, threats, forcible entry into homes and even torture and murder. The report questioned what it called the attempt by the Government to recast the rondas campesinas into the mould of Government-sponsored, armed civil defence patrols.

50. Turning to the Government's economic and social policies, in connection with articles 5 and 2 of the Convention, he quoted from the same report, which stated that several laws currently being considered by the Congress might further endanger the future of traditional land-holders, notably the law permitting the privatization of water rights and the new land law that would effectively privatize indigenous communal lands. Those laws were said to be in the same neo-liberal mould as those that had sparked both the 1994 uprisings in Chiapas, Mexico, and the widespread indigenous protests in Ecuador, and, it was said, would reverse the gains made by the agrarian reforms of the late 1960s and seriously erode the traditional way of life of indigenous peasants. Such reports prompted the concern that, although economic and social policies in general might be successful in some ways, they often tended to marginalize the rural poor, who in many cases were descendants of indigenous peoples, and thus had the effect of failing to guarantee their social and economic rights and increasing inequalities.

51. He associated himself with the concern voiced by other speakers at the apparent failure to comply with the provisions of article 4 of the Convention. Regarding the implementation of article 6 and the importance of effective protection and remedies and the right to seek reparation or satisfaction for any damage suffered as a result of such discrimination, he said that, although he was aware that much violence was caused by terrorist activities, there was also a substantial body of evidence from sources including the Human Rights Committee that violence was also being committed in Peru by the military, the paramilitary, the police and armed Government-controlled groups. Other reliable sources reported mass killings. Another matter of great concern to

the Committee was the persistent pattern of impunity in Peru and the failure to investigate and punish serious human rights violations, which affected peasant and indigenous groups and the people at large.

52. Although Peru's report was encouraging, further information was needed as soon as possible. A welcome development was the establishment of various new human rights institutions and structures, referred to in paragraphs 100 to 103 of the periodic report. Although their objectives and functions were stated, that was not in itself a guarantee of effective protection, and he asked for more information about their actual activities. Had the Special Office of the Ombudsman and Procurator for Human Rights, for instance, already been entrusted with investigating reported human rights violations? In conclusion, he said that the situation in Peru required very close monitoring. An unusually long period of time had elapsed since the submission of the previous periodic report, and he hoped that an updated report, containing the additional information now requested, would be received in the near future.

53. Mr. de GOUTTES said that the presence of the Minister of Justice and his oral presentation augured well for Peru's dialogue with the Committee. He congratulated the Government for having made the declaration provided for in article 14 of the Convention.

54. In Peru, as in many Latin American countries, the central problem was not directly one of racial discrimination, but rather one of economic and social discrimination affecting some categories of the population, especially indigenous groups in the Andean and Amazon regions. As Mr. Wolfrum had said, the situation reflected underlying problems of ethnic discrimination. He asked whether the Government could provide more precise information in its next periodic report on the ethnic composition of the population, or whether such information was not available on account of the Government's wish not to include references to racial or ethnic background in population censuses.

55. While the report described special measures designed to promote development in the areas inhabited by indigenous communities, especially in the Andean and Amazon regions, he asked what measures had been taken to resolve the problems of disadvantaged districts, such as shanty towns, in the major urban centres, with their population of displaced persons. Had any special measures been adopted for the benefit of children of poor families compelled to work on the streets or in the mines, or of especially poor families?

56. As a magistrate, he was particularly interested in special measures to assist the indigenous population in the field of justice. He requested further information on the customary courts authorized by the Constitution and referred to in paragraph 35 of the periodic report, and on the relationship between those special courts and the regular justice system.

57. Referring to paragraph 56 of the report, he asked how the New Criminal Code was organized, and what arrangements there were for persons who, because of their ethnic background, were unable to understand the regular legal procedures.

58. In Peru, as in other Latin American countries, the Government's policy of assistance to the indigenous population was affected by terrorist violence and drug trafficking. Such violence had engendered a series of legislative measures of the emergency regulation type, which had been denounced by non-governmental organizations, especially Amnesty International. Since the Committee was competent to deal with instances of human rights violations or discrimination against indigenous communities, he wished to know what truth there was in the allegation, contained in the 1994 report of Amnesty International, that human rights violations, including massacres, had been committed by the security forces or Government-controlled patrols.

59. It was clear that there existed in Peru many remedies for the defence by individuals of their fundamental rights, as well as many authorities with competence in that area. Given that abundance, the absence from the report of any legal and statistical information concerning complaints, prosecutions and convictions for acts of racial discrimination was disappointing. Could not a few significant examples at least be given? Actual prosecutions and sentences were the yardstick whereby the effective application of the Convention could be gauged. Actual complaints were a measure of public confidence in the legal system. Where racial discrimination was concerned, evidence of judicial intervention, including repressive measures, had a symbolic and even pedagogical function in society at large.

60. Mr. SONG Shuhua, welcoming the current report of Peru - which was longer than the preceding one - and commending the Country Rapporteur's analysis, expressed particular concern about the situation of the peasant and indigenous communities in Peru. He noted in paragraph 30 the list of measures designed "to achieve comprehensive development of the peasant communities", and wondered why the indigenous populations, which were also disadvantaged, were not mentioned. The report also referred to various guarantees, with regard to land ownership, for example, and to efforts to improve living conditions; but he would have welcomed some indication of the practical measures taken and their results. What, in short, had actually been done?

61. Concerning "the ancestral peasant and indigenous communities' right of ownership to their lands", mentioned in paragraph 26, he asked to what extent those communities were actual participants in or beneficiaries of programmes for the exploitation and development of natural resources in those lands.

62. During the discussion of the seventh periodic report of Peru, nine years previously, he had learned that illiterates in that country had the right to vote, but he wondered what difficulties they encountered in practice. Had any improvements occurred during the intervening period? Did all Peruvians enjoy the same voting rights? Were the indigenous peoples represented in Parliament?

63. Mr. CHIGOVERA said that previous speakers had voiced most of his concerns, so that he would merely highlight questions which he considered especially important.

64. Further information was certainly called for in connection with the application of articles 2 and 4 of the Convention. According to a United States country report on human rights practices dated February 1994,

Peru's population included several small racial minorities, the largest of whom were Blacks of African descent and Asians. Blacks, in particular, who tended to be concentrated along the coast, faced pervasive discrimination and social prejudice and were among the poorest people in Peru; they tended to be excluded from leadership roles in government, military and business institutions; the few Blacks who had achieved relative financial success had done so in the sports and entertainment fields. Perhaps the Peruvian delegation would comment on the accuracy or otherwise of that information? If the information was correct, what was being done to redress the situation?

65. Concerning possible violations of the rights enumerated in article 5 of the Convention, and the right of individual recourse, consequent to Peru's declaration under article 14, to the help of international bodies such as the Committee when domestic remedies had been exhausted, he asked whether the people in general were in fact aware of the rights, of the constitutional guarantees that protected them, and of the remedies available to them if they suffered discrimination.

66. Paragraphs 72 (b) and (c) of the report indicated that Peruvian citizens enjoyed the right "to initiate legislation", and "to remove or dismiss authorities and demand an account of their actions". Again, he asked whether those rights were a matter of public knowledge and how they could be effectively exercised.

67. Paragraph 74 of the report stated that "[W]ith regard to economic, social and cultural rights, everyone is guaranteed the right to work freely, subject to legal requirements ...". He wished to know what exactly was meant by that proviso?

68. Mr. RECHETOV said that Peru was one of a number of Latin American and - indeed - other countries where internal conflicts necessitated interventions by armed forces under the authority of the defence and interior ministries, as well as by less clearly defined units, such as Peru's so-called "peasant patrols". It was important to ensure that all of them operated within the limits of the law and with full respect for human rights. The situation in Peru had, of course, very deep social and economic roots; security compliance with international norms was by no means an easy task.

69. Noting from paragraph 15 of the report the establishment of "the National Human Rights Committee of the department of the interior", he sought clarification as to that body's actual functions. Did it monitor the actions of the police; was it an internal watchdog? Clarification on that point would be welcome.

70. Paragraph 16 referred to the "Ten Golden Rules of the Forces of Order in regard to human rights". He had studied that text - unfortunately available only in a Spanish version - in order to compare it with relevant international publications, the United Nations "Principles" series, for example. He had been surprised and disappointed to learn that what seemed to be an exemplary document and perhaps a model for other countries - although it contained few detailed references to the relevant human rights instruments to which Peru was a party - was not, as it surely ought to be, in every soldier's pocket, but seemed merely to serve as a teaching manual for army schools. That was all

the more regrettable as Peru was a country whose entire population would benefit from initiatives designed to familiarize individuals, regardless of their ethnic origin or skin colour, with their rights and with the guarantee and protection of those rights.

71. Given the large-scale involvement of armed forces in Peru's affairs, he would appreciate an explanation of the utilization of the document he had referred to and - more generally - of the manner in which the observance of human rights by the army and police was monitored.

72. Mr. YUTZIS listed what he saw as some of the distant and more recent causes of Peru's current difficulties: the destruction of its ancient civilization; the not always positive heritage of its colonial past; the self-serving designs of foreign investors; the negative effects of modern structural adjustment policies imposed from outside; and an internal conflict that had almost brought the country to its knees. The repercussions, as far as the observance of human rights and the implementation of the international instruments were concerned were not hard to discern. He would ask a few specific questions in that connection.

73. Firstly, he wondered whether the drafting for the armed forces of the special rules referred to by Mr. Rechetov might not have the effect of setting those forces apart, as a law unto themselves, and implying that they were liberated from other, broader obligations in the domain of human rights.

74. Secondly, he asked what practical measures had been taken by the technical commission mentioned in paragraph 17 of the report on behalf of families displaced by terrorist violence.

75. Thirdly, in connection with the statements in paragraph 22 that the State respected the cultural identity of the peasant and indigenous communities and in paragraph 55 that Quechua, Aymara and the other aboriginal languages had official status under the law, he asked whether interpretation was, as required, provided in the courts, how many people spoke those languages and whether translations into those languages had been made of various legislative documents, notably those relating to labour law and the rules governing detention, release from detention and sentencing.

76. Paragraph 30 of the report listed a number of measures designed to achieve comprehensive development of the peasant communities. In connection with paragraph 30 (b), which referred to the simplification of loan requirements and facilities, he inquired about the impact of what he understood to have been the closing down by the Government and President Fujimori of the Agricultural Bank, which had been a major source of loans to some of the most important peasant communities in the country. In passing, he asked for clarifications and distinctions between what were variously described as "peasant" and "indigenous" communities, and for an explanation of the statement in paragraph 24 that "[T]he authorities of the communities, with the support of the peasant patrols [might] administer justice within their territorial area, in keeping with customary law ...".

77. Noting the references in the report to the "major contribution" of the Catholic Church to Peruvian development, he suggested that other religious institutions must also be playing a part, and requested information in that regard.

78. He too would welcome an explanation of the difference between the armed patrols mentioned in the report and the traditional rondas campesinas. He also requested further information concerning the employment status of the indigenous peoples, given that the Government had ratified ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. Could it be assumed that those peoples were protected under Peru's labour laws?

79. Mr. Vega Santa-Gadea, Mr. Urrutia, Mr. Chauny, Mr. Rubio-Correa, Mr. Garcia and Mr. Perez-Del-Solar (Peru) withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

80. The CHAIRMAN introduced, on behalf of the Bureau of the Committee, a revised programme of work. He called particular attention to the scheduling, for the morning of 15 March, of consideration of information from the Federal Republic of Yugoslavia, and of the meeting with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to discuss further cooperation and mutual expectations in that respect. The scheduled consideration of additional information from Nigeria was subject to a letter dated 7 March, which he had received from the Chargé d'Affaires a.i., requesting a postponement. The Committee would be invited to discuss the contents of that letter.

81. It was hoped that time would be found for the consideration of communications during the final week of the session.

82. With a view to expediting the Committee's work, he invited the country rapporteurs to prepare as speedily as possible, circulate, and discuss informally with members their draft concluding observations on the various reports.

83. Mr. WOLFRUM drew attention to a revised version of his draft general recommendation on article 5, and to a draft decision which he had prepared with the aim of guiding the Committee in its deliberations on the reports of States parties and in particular in its decisions on urgent measures. Both of those texts had been circulated. He hoped that they could be adopted at the present session.

The meeting rose at 6.05 p.m.